

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No: 56907/2021

In the matter between:

AFRICAN CLIMATE ALLIANCE	First Applicant
VUKANI ENVIRONMENTAL JUSTICE MOVEMENT IN ACTION	Second Applicant
THE TRUSTEES FOR THE TIME BEING OF GROUNDWORK TRUST	Third Applicant

and

THE MINISTER OF MINERAL RESOURCES AND ENERGY	First Respondent
THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Second Respondent
THE MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT	Third Respondent
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Fourth Respondent

RULE 16A NOTICE

TAKE NOTICE THAT in this application, the applicants have raised the following constitutional issues:

- 1 Whether, in the light of the climate crisis and the harms of coal-fired power, the decisions to obtain 1500 MW of new coal-fired power, as reflected in—
 - 1.1 the determination published by the Minister of Mineral Resources and Energy (“**Minister**”) on 25 September 2020 in Government Gazette No 42784 (“**Minister’s Determination**”);

1.2 the concurrence of the National Energy Regulator of South Africa (NERSA) published on or about 10 September 2020; and

1.3 the Integrated Resource Plan 2019, published on 18 October 2019 as GN 1360/2019 in Government Gazette 42784 (“2019 IRP”);

(“the impugned decisions”)

are an unjustified limitation of constitutional rights, including the rights to life, dignity, equality, environmental rights, healthcare, food, water, and the best interest of the child principle.

- 2 Whether the impugned decisions are consistent with the state’s obligations under section 7(2) of the Constitution, interpreted in light of international law.
- 3 Whether the impugned decisions gave full and proper consideration to the best interests of children who will be most affected by the inclusion of 1500 MW of new coal-fired power.
- 4 Whether the impugned decisions ought to be reviewed and set aside in terms of the Promotion of Administrative Justice Act 3 of 2000, alternatively, section 1(c) of the Constitution.
- 5 The further just and equitable relief.

TAKE FURTHER NOTICE that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has

been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE FURTHER NOTICE that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

TAKE FURTHER NOTICE that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

TAKE FURTHER NOTICE THAT any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

DATED at PRETORIA on this the 10th day of November 2021.



CENTRE FOR ENVIRONMENTAL RIGHTS

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TO: THE REGISTRAR OF THE ABOVE COURT
PRETORIA

AND TO: THE MINISTER OF MINERAL RESOURCES & ENERGY

First Respondent

192 Visagie Street

Corner Paul Kruger & Visagie Street

PRETORIA

AND TO: THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Second Respondent
526 Madiba Street
Arcadia
PRETORIA

**AND TO: THE MINISTER OF FORESTRY, FISHERIES
AND THE ENVIRONMENT**

Third Respondent
Environment House
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Arcadia
PRETORIA

AND TO: THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fourth Respondent
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